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FILED 07 OCT 16 15:40 USDC-ORP

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

No. 07-CR-47-BR

Plaintiff,

**STIPULATION OF PARTIES RE
DISPOSITION OF PENDING MOTIONS,
AND ORDER THEREON**

vs.

MILENKO KRSTIC,

Defendant.

Plaintiff, United States of America, by and through its attorney of record, Assistant United States Attorney David Atkinson, and defendant, Milenko Krstic, by and through his attorney of record, Assistant Federal Public Defender Christopher J. Schatz, have met and conferred in compliance with the Court's order of September 27, 2007, directing the parties to confer with respect to certain pending motions (docket Nos. 15, 16, 17, 19, and 22), and on that basis said parties do hereby agree and stipulate as follows:¹

¹ The parties met and conferred with respect to the pending motions on October 9, 2007. It is understood by the parties, and thus noted herein, that additional information and/or witnesses may be identified during the course of ongoing litigation. In the event information and/or a witness is identified after the occurrence of any of the production dates hereinafter set forth, the parties have agreed that the party making such discovery shall immediately notify the opposing party and the Court of the same so that appropriate action can be taken at that time to address admissibility issues.

(1) With respect to defendant's Motion for Production of Federal Rule of Evidence 16(a)(1)(G) Statement(s) of Expert Witness(es) No Later than Thirty Days Prior to Trial (Docket No. 15), the parties agree and stipulate that this motion should be granted. The government will comply with its Rule 16(a)(1)(G) obligation on or before January 18, 2008. Defendant will, in turn, comply with his obligation under Rule 16(b)(1)(C) on or before January 18, 2008.

(2) With respect to defendant's Motion for Order Directing Government to Provide Rule 404(b) Notice Thirty Days in Advance of Trial (Docket No. 16), the parties agree and stipulate that this motion should be granted. The government has advised defendant that it intends to offer evidence pertaining to the activities of the Zvornik Brigade's involvement in genocide of Muslim men in and around the City of Zvornik, Bosnia-Herzegovina, in July of 1995. The government has further advised that this testimony will be offered through its expert witness, Richard Butler. Notice of any additional Rule 404(b) evidence will be provided by the government no later than January 18, 2008.

(3) With respect to defendant's Motion for Production of *Brady* Material and Cooperation Agreements and Satisfaction of Prosecutor's Duty of Inquiry and *Henthorn* Review (Docket No. 17), the parties agree and stipulate that this motion should be granted. It is further agreed that defendant will provide the government with a statement as to categories of evidence that defendant believes constitute potential *Brady* material on or before December 17, 2007. The government agrees it will respond to the defendant's *Brady* categorization statement no later than January 18, 2008. With respect to defendant's *Henthorn* request, the government will respond to that request no later than January 18, 2008.

(4) With respect to defendant's Motion for Specification of Evidence Government Intends to Use at Trial (Docket No. 19), the parties agree and stipulate that this motion should be granted, and that the government will specify the evidence it intends to utilize at trial in proof of its prima facie case, including identification of any and all statements the government contends were made by Mr. Krstic and which it intends to offer into evidence in accordance with Federal Rule of Evidence 801(d)(2), on or before January 18, 2008. Any objection to such evidence, as defendant may choose to raise under Federal Rule of Criminal Procedure 12(b)(3)(C), shall be filed with the Court on or before February 8, 2008.


(5) With respect to defendant's Motion for Return of Property (Docket No. 22), the parties agree and stipulate that the motion should be deemed moot at this time in accordance with the following stipulated agreements:

Prior to December 7, 2007, the government (DHS/ICE) will reissue a temporary I-551 permanent residency card in Mr. Krstic's name that will be valid through December 7, 2008. Reissuance or renewal of said card shall continue as needed during the course of the litigation in the instant case; and

If Mr. Krstic is found not guilty, the government will return his lawful permanent resident card to him immediately. It is understood that the government's agreement in this regard is without prejudice to such administrative action as may subsequently be taken against Mr. Krstic with respect to his status as a lawful permanent resident.

(6) The parties further agree and stipulate that, in the event it appears foreign evidence collection will render the current production dates and trial date unrealistic, as soon as possible the parties will confer and file a proposed amended production-date and trial-date schedule with the Court.

10/15/07
Date



Plaintiff United States of America
By David L. Atkinson, Assistant United States Attorney

10/11/07
Date



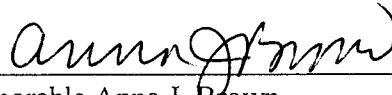
Defendant Milenko Krstic
By Christopher J. Schatz, Assistant Federal Public Defender

ORDER

The parties having met and conferred as directed by the Court, and having reached certain stipulations and agreements pertaining to the motions identified as Docket Nos. 15, 16, 17, 19, and 22,


It is hereby ORDERED that the stipulations and agreements set forth above shall be dispositive of the motions filed as Docket Nos. 15, 16, 17, 19, and 22, such that the motions identified by Docket Nos. 15, 16, 17, and 19 are hereby granted subject to the terms and conditions set forth above, and that the motion identified as Docket No. 22 is hereby determined to be moot in accordance with the agreements and stipulations set forth in paragraph (5) above.

DATED this 16th day of October, 2007.



The Honorable Anna J. Brown
United States District Court Judge

Submitted by:



Christopher J. Schatz
Assistant Federal Public Defender